HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 05, 2017
85th Legislature, Number 64
The House convenes at 10:30 a.m.
Part One

Fourteen bills and one joint resolution set for second-reading consideration on today's daily calendar are analyzed or digested in Part One of today's *Daily Floor Report*. They are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 64

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Friday, May 05, 2017
85th Legislature, Number 64
Part 1

SUBJECT: Amending eligibility requirements for sports team charitable raffles

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Kuempel, Frullo, Geren, Goldman, Herrero, Paddie, S. Thompson

0 nays

2 absent — Guillen, Hernandez

WITNESSES: For — (*Registered, but did not testify*: R. Clint Smith, Texas Motor Speedway; Jon Fisher, Sugar Land Skeeters Baseball Club; Rene Ramirez, Vipers Basketball)

Against — None

BACKGROUND: Art. 3, sec. 47 of the Texas Constitution requires the Legislature to prohibit lotteries and gift enterprises in the state, with certain exceptions, including bingo games and charitable raffles conducted by various nonprofit or religious organizations.

The 84th Legislature in 2015 passed and voters approved HJR 73 by Geren and its enabling legislation, HB 975 by Geren, which together permitted certain professional sports team charitable foundations existing on January 1, 2016, to conduct charitable raffles at home games under certain conditions. HJR 73 added subsection (d-1) to Art. 3, sec. 47 of the Texas Constitution.

DIGEST: HJR 100 would propose an amendment to Art. 3, sec. 47(d-1) of the Texas Constitution to specify that a law enacted under that subsection permitting a professional sports team charitable foundation to conduct a charitable raffle would apply only to an entity defined as a professional sports team charitable foundation under that law and would remove the requirement for the foundation to have been in existence on January 1, 2016.

The proposal would be presented to the voters in an election on Tuesday, November 7, 2017. The ballot proposal would read: "The constitutional amendment on professional sports team charitable foundations conducting charitable raffles."

SUPPORTERS SAY:

HJR 100, along with its enabling legislation, HB 3125 by Kuempel, would expand the number of professional sports team charitable foundations eligible to hold charitable raffles at home sports games. The joint resolution would allow teams to capitalize on the large and supportive crowds at sporting events to increase the amount of charitable funds available to support their charitable programs. Current charitable raffles have been successful in raising large amounts of money for charity with no abuse of the process.

The joint resolution and HB 3125 would work together to permit the charitable foundations of more professional leagues and their teams to hold charitable raffles for cash prizes at each of their team's home games. HJR 100 would add sports teams representing more rural and suburban communities, bringing charitable revenue to new and different parts of the state and uniting sports teams and their communities to assist disadvantaged Texans. HB 3125 would expand the definition of "professional sports team" to include additional leagues. Charitable raffles help a team link its fans to community programs supported by its foundation and help raise public awareness of charitable activities in the area.

HJR 100 only would expand the number of sports teams that could participate in charitable raffles — it would make no other change and would not remove safeguards that were established to protect against improperly conducted raffles. The protections that are in place, such as requirements that the foundation be associated with a professional sports team with a home venue in Texas and that it qualify as a charitable organization under federal law, have been successful. Since the law took effect in 2016, no proliferation of profit-making gambling activities has resulted.

OPPONENTS SAY:

The current constitutional authorization appropriately applies only to the 10 Texas major league sports franchises that had charitable foundations on

January 1, 2016. This limitation in Art. 3, sec. 47(d-1) was established to protect against the creation of entities solely to take advantage of charitable raffles. HJR 100, along with its enabling legislation, could open the door to further expansion of charitable raffles conducted by the foundations of less well established teams, an idea that was rejected last session when the Legislature was unambiguous in its choice of teams allowed to hold charitable raffles.

The state should be cautious about expanding the number of participants allowed to conduct charitable raffles. HJR 100 would expand gambling in Texas by increasing the number of such raffles that sports team foundations could conduct, which could prompt other groups to request expanded authority to offer such raffles.

NOTES:

HB 3125 by Kuempel, the enabling legislation for HJR 100, is set for second-reading consideration on today's calendar.

According to the Legislative Budget Board's fiscal note, HJR 100 would have no fiscal implication to the state other than the cost for publication of the resolution, which would be $114,369.

A companion bill, SJR 49 by Hinojosa, was referred to the Senate Committee on State Affairs on March 16.

SUBJECT: Expanding sports teams eligible to hold charitable raffles

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

WITNESSES: For — (*Registered, but did not testify*: Jon Fisher, Sugar Land Skeeters Baseball Club; R. Clint Smith, Texas Motor Speedway; Rene Ramirez, Vipers Basketball)

Against — None

BACKGROUND: The 84th Legislature in 2015 passed and voters approved HJR 73 by Geren and its enabling legislation, HB 975, which together permitted certain professional sports team charitable foundations existing on January 1, 2016, to conduct charitable raffles at home games under certain circumstances. HB 975 created the Professional Sports Team Charitable Foundation Raffle Enabling Act (Occupations Code, sec. 2004).

Sec. 2004.002 of the act defines the leagues under which professional sports teams are eligible to hold charitable raffles. In this section, "professional sports team" means a team organized in Texas that is a member of Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, or Major League Soccer.

DIGEST: CSHB 3125 is the enabling legislation for HJR 100 by Kuempel, which would propose an amendment to Art. 3, sec. 47(d-1) of the Texas Constitution to specify that a law enacted under that subsection permitting a professional sports team charitable foundation to conduct a charitable raffle would apply only to an entity defined as a professional sports team charitable foundation under that law and would remove the requirement

that the foundation had to be in existence on January 1, 2016.

CSHB 3125 would add the following entities to the definition of "professional sports team" under the Professional Sports Team Charitable Foundation Raffle Enabling Act:

- the American Hockey League;
- the East Coast Hockey League;
- the American Association of Independent Professional Baseball;
- the Atlantic League of Professional Baseball;
- Minor League Baseball;
- the National Basketball Association Development League;
- the National Women's Soccer League;
- the Major Arena Soccer League;
- the United Soccer League; and
- a person hosting a motorsports racing team event sanctioned by a nationally recognized racing association at venue in Texas with seating for at least 75,000 attendees.

The bill also would make a debit card an acceptable form of payment for purchasing a raffle ticket for a charitable raffle conducted under the act

The bill would take effect September 1, 2017, but only if the constitutional amendment authorizing additional professional sports team charitable foundations to conduct charitable raffles at additional venues was approved by voters. If that amendment were not approved by voters, this bill would have no effect.

SUPPORTERS SAY:

CSHB 3125 would allow professional sports teams that want to host charitable raffles but do not belong to the eligible leagues identified in current law to have the same opportunities as their peers. Charitable raffles help a team link its fans to community programs supported by its foundation and raise public awareness of charitable activities in the area.

The bill would benefit Texas sports teams and communities, as current raffles have led to increased attendance and enthusiasm at games for those participating teams. This increase already has translated into significant

money for charities, creating opportunities for sports teams to increase their contributions and support their causes. The bill would add sports teams representing rural and suburban communities, bringing charitable revenue to new and different parts of the state.

Along with HJR 100, CSHB 3125 would expand the opportunity to conduct charitable raffles to teams within the identified leagues while preserving sensible eligibility requirements in current law that charitable foundations must meet. These include that the foundation be associated with a professional sports team with a home venue in Texas, have existed for at least three years before holding a raffle, and qualify as a charitable organization under federal tax law. The bill and proposed amendment would preserve these measures that protect against improperly conducted raffles. The safeguards have worked well, and there has been no resulting proliferation of profit-making gambling activities since the law took effect at the beginning of last year.

The bill also would protect participants by allowing people to pay for raffle tickets with debit cards. Fans attending games would not have to carry cash with them in order to buy raffle tickets.

OPPONENTS SAY:

Current statutory authorization appropriately applies only to the 10 Texas franchises in the country's five major sports leagues. This provision was crafted to place a reasonable limit on the number of entities able to conduct charitable raffles, rather than opening eligibility to all professional sports teams in Texas and their associated charitable foundations. HB 3125, with HJR 100, could open the door to increased expansion of charitable raffles conducted by the foundations of less well established teams, an idea that was rejected last session when the Legislature was unambiguous in its choice of teams permitted to hold charitable raffles.

The state should be cautious about expanding the number of entities holding charitable raffles. CSHB 3125 would expand gambling in Texas by increasing the number of sports team foundations that could conduct these raffles through their associated foundations. This could prompt other groups to request expanded authority to offer such raffles.

NOTES:

The authorizing constitutional amendment, HJR 100 by Kuempel, is set for second-reading consideration on today's Constitutional Amendments Calendar.

A companion bill, SB 1337 by Hinojosa, was referred to the Senate Committee on State Affairs on March 14.

SUBJECT: Limiting time students are assigned to new or uncertified teachers

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

WITNESSES: For — Celina Moreno, Mexican American Legal Defense and Education Fund; Ted Melina Raab, Texas AFT (American Federation of Teachers); Jesse Romero, Texas Association For Bilingual Education; (*Registered, but did not testify*: Shannon Meroney, ACT-Dallas; Mark Wiggins, Association of Texas Professional Educators; Lindsay Gustafson, Texas Classroom Teachers Association; Yannis Banks, Texas NAACP; Ellen Arnold, Texas PTA; Portia Bosse, Texas State Teachers Association)

Against — (*Registered, but did not testify*: Mark Terry, Texas Elementary Principals and Supervisors Association)

On — (*Registered, but did not testify*: Kara Belew and Ryan Franklin, Texas Education Agency)

BACKGROUND: Education Code, sec. 21.003 establishes that a person may not be employed as a teacher by a school district unless the person holds the appropriate certificate issued by the State Board for Educator Certification. School districts can apply to the Commissioner of Education for a waiver from this requirement or apply to the commissioner to issue an emergency permit for a teacher to teach a course outside the teacher's area of certification for one year while proper certification is obtained. Some suggest that student achievement is best served by being taught by experienced teachers in their areas of certification.

DIGEST: CSHB 972 would prohibit a public school student in the first through sixth grade from being assigned for two consecutive years to a teacher who had less than one year of teaching experience and did not hold the appropriate teaching certificate. This requirement would apply only to school districts with an enrollment of 5,000 or more students and would not apply to the first year a student transferred into the school district.

This requirement would not apply if:

- the teacher to whom the student was assigned was teaching a subject not included in the foundation curriculum, consisting of English, math, science, and social studies; or
- the student's parent or legal guardian and a school counselor or school administrator agreed otherwise regarding the assignment of the student to the teacher.

The Commissioner of Education could grant a waiver from these requirements if the commissioner found that extreme circumstances in the district warranted the waiver. The commissioner could adopt rules necessary to implement the waiver.

The bill would apply beginning with the 2017-2018 school year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Emphasizing democratic principles in the public school curriculum

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

1 present not voting — Dutton

WITNESSES: For — (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Marlene Lobberecht, League of Women Voters of Texas; Mark Terry, Texas Elementary Principals and Supervisors Association; Jim Reaves, Texas Farm Bureau; Ellen Arnold, Texas PTA; Pat Brooks; Thomas Parkinson; Kimberly Saldivar; Raul Saldivar)

Against — (*Registered, but did not testify*: Ryan Valentine, Texas Freedom Network)

On — (*Registered, but did not testify*: Monica Martinez, Texas Education Agency; Aicha Davis)

BACKGROUND: Education Code, sec. 28.002 provides curriculum requirements for public school students in kindergarten through grade 12, established by the State Board of Education (SBOE). Section 28.002(h) states that a primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

Observers suggest that public school curricula should foster the study of the democratic principles underlying the United States government.

DIGEST: CSHB 1291 would require the State Board of Education (SBOE) and each school district, in order to accomplish the primary purpose of the public

school curriculum, to ensure that:

- the public school curriculum emphasized an understanding of the principles underlying the United States form of government, including the study of the Founding Fathers of the United States, the Declaration of Independence, the United States Constitution, the Bill of Rights, and the Federalist Papers; and
- each historical event addressed in the public school curriculum met a reasonable standard of historical significance, in relation to the limited amount of available instructional time.

The bill also would require that the SBOE's list of instructional materials contain material consistent with the purpose and guidelines provided by the bill. This requirement would apply to instructional materials adopted by the SBOE on or after September 1, 2018.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-18 school year.

SUBJECT: Making certain communications of family violence victims confidential

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

WITNESSES: For — Jaime Esparza, District Attorney 34th Judicial District; Ashley Juraska, The SAFE Alliance; Molly Voyles, Texas Council on Family Violence; G.G.; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Jennifer Tharp, Comal County Criminal District Attorney; Gary Tittle, Dallas Police Department, Office of the Chief of Police; Jim Grace, Houston Area Women's Center; James Jones, San Antonio Police Department; Chris Kaiser, Texas Association Against Sexual Assault)

Against — None

BACKGROUND: Some suggest that advocates may be hesitant to record notes when meeting with family violence victims if the communication is not confidential and that this could hinder the advocacy process, requiring victims to recount unnecessarily the details of abuse.

DIGEST: CSHB 3649 would make written or oral communication between an advocate and a victim of family violence made during advising, advocacy, counseling, or other assistance confidential and not subject to disclosure.

The bill would give a victim the privilege to refuse to disclose and prevent others from disclosing confidential communication. This privilege could be claimed by a victim or the victim's attorney; the parent, guardian or conservator of a victim under 18 years old; or an advocate or family violence center working on the victim's behalf.

A confidential communication described above could be disclosed only:

- to an employee or volunteer of a family violence center who was furthering the advocacy process;
- to other people in the context of a support group or group counseling in which the victim was a participant; or
- to report instances of abuse or neglect involving a child, elderly person, or person with a disability.

The Texas Rules of Evidence would govern the disclosure of confidential communication in a criminal or civil proceeding by an expert witness who relied on facts or data from the communication to form the basis of the expert's opinion.

The bill would take effect September 1, 2017.

NOTES: A companion bill, SB 1757 by Hinojosa, was referred to the Senate State Affairs Committee on March 23.

SUBJECT: Requiring notice to mortgage servicers of property tax lien transfers

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Shine, Collier, Romero, Villalba, Workman

1 nay — Stickland

WITNESSES: For — Brian Engel, Barrett Daffin Frappier Turner and Engel LLP; Wes Hoskins, Texas Bankers Association; John Fleming, Texas Mortgage Bankers Association; (*Registered, but did not testify:* Chris Jones, Combined Law Enforcement Associations of Texas; Micah Rodriguez, Credit Union Coalition of Texas; Stephen Scurlock, Independent Bankers Association of Texas; David Emerick, JPMorgan Chase; Daniel Gonzalez and Julia Parenteau, Texas Association of Realtors; Celeste Embrey, Texas Bankers Association; Jeff Huffman, Texas Credit Union Association; Charlie Duncan and Nate Walker, Texas Low Income Housing Information Service)

Against — Matt Longhofer, Jack Nelson, and Peter Squier, Texas Property Tax Lienholders Association; Bill Peacock, Texas Public Policy Foundation; (*Registered, but did not testify:* Paul Halstead, Ovation Services)

BACKGROUND: Tax Code, sec. 32.06 authorizes property owners who owe delinquent taxes or owe taxes due on property not subject to a mortgage lien to transfer their tax lien to another party.

Finance Code, sec. 351.054 requires the party taking over the tax lien to provide certain notice of the transfer to the collector of the relevant taxing unit.

To transfer a property tax lien under sec. 32.06, property owners must file the following information with their collector:

- authorization for another party to pay the property owner's taxes;
- the name and street address of the transferee;

- a description of the property, including a legal description and the street address, if applicable;
- a statement that the property owner received notice that if disabled, he or she may be eligible for tax deferral; and
- the information included in the transferee's required notice to the collector.

DIGEST:

HB 2832 would require a property owner transferring a property tax lien to mail a notice to all relevant mortgage servicers stating that the property owner intended to enter into a contract for transfer of tax lien to pay delinquent taxes. Property owners would be required to send this notice by certified mail at least 10 days before executing the contract.

The bill would require transferring property owners to file with their collector a statement that this notice had been mailed to all relevant mortgage servicers.

The bill would take effect September 1, 2017, and would apply only to a contract entered into on or after that date.

SUPPORTERS SAY:

HB 2832 would ensure mortgage lenders were provided with adequate notice before a property owner made a lien transfer that would put the mortgage lender in a secondary lien position. Banks and other mortgage lenders have the right to know when property owners plan to make substantial changes to an agreement in which they are invested. Lien transfers also can violate the owner's contractual obligation to protect the lien position of their mortgage lender.

The bill could save property owners money and protect them from predatory property tax lenders by providing the mortgage company with a chance to make a competing offer before transfer. Property tax lenders do not provide consumers with the same information that federal law would afford to other mortgage borrowers.

The bill would not hurt municipalities' ability to collect property taxes because property owners would be free to proceed with transactions if notice was provided. The bill would help municipalities collect property taxes by increasing options for paying delinquent property taxes, and

lower-interest agreements with mortgage servicers would increase the likelihood that the owner could pay.

HB 2832 would not interfere with free market competition and would not prohibit any loan agreement. It simply would require notice to the mortgage servicer. It would increase competition and consumer options by allowing mortgage lenders and property owners a chance to negotiate different terms.

The bill would not overly burden property owners. Because property tax bills are issued in October and not due until January, the 10-day notice window would provide adequate time for property owners to plan delinquent tax refinancing. The potential penalty for violating the notice requirement is outweighed by the increased cost of refinancing through property tax lenders.

OPPONENTS SAY:

HB 2832 could hurt municipalities that rely on property tax by creating barriers for property owners to access a critical refinancing tool. When property taxes go unpaid, a tax bill can increase and leave taxpayers bearing the cost of delinquent taxes. Property tax liens are an important option for consumers struggling to pay taxes and should not be discouraged.

The bill could distort the tax loan market by encouraging mortgage servicers to unfairly edge out property tax lenders. The burden to notify mortgage lenders should not fall on property owners. Mortgage lenders already can freely access borrowers' tax delinquency information or require a notice provision in contracts with property owners.

The 10-day window of notice before a property tax lien transfer could proceed would unduly burden property owners. Most such transfers are enacted in the last 10 days of the month to avoid foreclosures and further penalties. The 10-day requirement would prevent some property owners from receiving the property tax payment mechanisms currently available.

NOTES:

A companion bill, SB 1397 by Nichols, was referred to the Senate Committee on Business and Commerce on March 16.

SUBJECT: Keeping temporary data entered in local campaign reports confidential

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 6 ayes — S. Davis, Moody, Capriglione, Nevárez, Shine, Turner

0 nays

1 absent — Price

WITNESSES: For — Danielle Folsom, City of Houston Mayor's Office; (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Carol Birch, Public Citizen Texas; Lon Burnam; Hamilton Richards)

Against — None

BACKGROUND: Election Code, sec. 254.0401 requires clerks in counties with a population of 800,000 or more and cities with a population of 500,000 or more to make campaign finance reports filed by candidates and officeholders available to the public on the internet.

Some cities are implementing electronic systems for filers to use in making the reports, and interested parties have expressed concern for the potential misuse or misinterpretation of electronic data that is entered into the form and temporarily saved before the report is completed and filed.

DIGEST: HB 998 would require filing authorities to keep confidential any electronic report data saved in a temporary storage location of the authority for later retrieval and editing. The information could not be publicly disclosed until the report was filed.

The bill would take effect September 1, 2017.

SUBJECT: Allowing the carrying of certain knives

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Todd Rathner, Knife Rights; Rick Briscoe, Open Carry Texas; (*Registered, but did not testify*: Rachel Malone, Texas Firearms Freedom; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code, sec. 46.02(a) makes it a crime for a person to intentionally, knowingly, or recklessly carry an illegal knife while not on his or her own property or inside of his or her own vehicle or watercraft.

Sec. 46.06(a) establishes that it is an offense for a person to intentionally, knowingly, or recklessly sell, rent, lease, or give a knife to a child younger than 18 or to offer to do one of these acts.

Some have noted that properly enforcing the prohibition on illegal knives is a challenge for law enforcement and the courts because of confusion over what constitutes an illegal knife. Concerns have been raised that this statutory vagueness could result in discriminatory enforcement against individuals carrying knives.

DIGEST: CSHB 1935 would remove the term "illegal knife" from the list of weapons which it is a crime to intentionally, knowingly, or recklessly carry onto certain premises, making it legal to carry a knife anywhere in the state.

A school district could expel a student in possession of the following types of knives on school property or at school-related activities:

- a knife with a blade over five and a half inches long;
- a throwing knife;
- a dagger, including a dirk, stiletto, and poniard;
- a bowie knife;
- a sword; or
- a spear.

CSHB 1935 would make conforming changes in various statutes to remove references to illegal knives.

The bill would take effect September 1, 2017.

SUBJECT: Increasing information to defendants placed on community supervision

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — Joe Flores; Craig Smith; (*Registered, but did not testify*: Margaret "Peggy" Cook and Goodman Holiday, Austin Justice Coalition; Kathryn Freeman, Christian Life Commission; Traci Berry, Goodwill Central Texas; Katija Gruene, Green Party of Texas; Douglas Smith, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP; Darwin Hamilton; Lauren Johnson)

Against — None

On —Margie Johnson, Office of Court Administration; Amber Givens-Davis

BACKGROUND: Code of Criminal Procedure, art. 42A.701(f) authorizes a court to release a defendant from all penalties and disabilities resulting from the underlying offense after the defendant successfully completes a term of community supervision. Observers have noted that many individuals remain unaware that judges have this authority.

DIGEST: CSHB 1507 would require courts to inform defendants that the judge is authorized to release individuals from all penalties and disabilities from an offense if a defendant successfully completed a term of community supervision. This notice would be required before a court could accept a plea from a defendant, as well as when a defendant was placed on supervision. The Office of Court Administration would prescribe a form for courts to use to provide this information to defendants being placed on community supervision.

The bill also would require the Office of Court Administration to adopt a

standardized form for courts to use in discharging a defendant from community supervision that would either provide for the judge to:

- discharge the defendant; or
- discharge the defendant, set aside the verdict or permit the defendant to withdraw a plea, and dismiss the accusation, complaint, information, or indictment against the defendant.

The form would state that a defendant whose accusations were dismissed was released from the penalties and disabilities resulting from the offense.

The Office of Court Administration would be required to adopt the two forms required in the bill by December 1, 2017.

The bill would take effect September 1, 2017, and would apply only to pleas or discharges from community supervision occurring on or after January 1, 2018.

SUBJECT: Making copies of certain records submitted to TCOLE confidential

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

WITNESSES: For — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Mitch Landry, Texas Municipal Police Association (TMPA); Deborah Ingersoll, Texas State Troopers Association)

Against — None

On — (*Registered, but did not testify*: John Beauchamp, Texas Commission on Law Enforcement)

BACKGROUND: Occupations Code, ch. 1701, subch. J governs employment records of law enforcement. Sec. 1701.454 establishes that all information submitted to the Texas Commission on Law Enforcement under subch. J is confidential and not subject to disclosure under public information laws, except in certain circumstances. Some suggest it is unclear whether current law applies to the copies of employment records that are retained by law enforcement agencies, which can result in confusion or inadvertent noncompliance.

DIGEST: CSHB 2050 would make confidential copies of information submitted under Occupations Code, ch. 1701, subch. J that were retained by the submitting law enforcement agency.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Altering the criminal charge for threatened use of a firearm by a student

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Huberty, Bernal, Bohac, Dutton, Gooden, K. King, Koop, VanDeaver

0 nays

3 absent — Allen, Deshotel, Meyer

WITNESSES: For — Christopher Trusty, Garland Police Department; (*Registered, but did not testify*: Brian England, City of Garland; Brenda Koegler, League of Women Voters of Texas; Kyle Ward, Texas PTA)

Against — None

On — (*Registered, but did not testify*: Kara Belew and Candace Stoltz, Texas Education Agency)

BACKGROUND: Education Code, sec. 37.125 establishes that a person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm on school property or on a school bus. The offense is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000).

Some have suggested a lesser charge should be applied when a student makes a threat but is not in possession of a firearm because of the severe consequences of having a felony charge on a student's record.

DIGEST: HB 2880 would amend the exhibition of firearms statute in the Education Code to allow for a reduced penalty when the actor threatened to exhibit or use a firearm, depending on whether the person possessed a firearm or one was within reach.

Threatening to exhibit or use a firearm in a school setting would remain a

third-degree felony if the actor was in possession of or had immediate access to the firearm. Threatening to exhibit or use a firearm in the same setting without possession of or access to a firearm would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000).

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

SUBJECT: Reporting certain drug abuse data to the Texas State Board of Pharmacy

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries of South Texas; James Jones, San Antonio Police Department)

Against — None

On — (*Registered, but did not testify*: Allison Benz and Gay Dodson, Texas State Board of Pharmacy; Thomas Parkinson)

BACKGROUND: Observers note that with prescription drug abuse increasing, some individuals with addictions to certain drugs are prescribed those medications inadvertently by health care providers unaware of the patient's history of abuse.

DIGEST: CSHB 3189 would require judges to report a defendant's name and date of birth, as well as the names of the abused substances, to the Texas State Board of Pharmacy if a defendant received prescription drug abuse treatment:

- as a condition of community supervision in a substance abuse felony punishment facility or a facility or program approved or licensed by the Department of State Health Services as a result of a criminal sentence;
- as a condition of participation in a specialty court; or
- pursuant to a court-ordered chemical dependency treatment.

The information would be incorporated into an existing database used by pharmacies to report prescriptions, except that courts also could transmit

information to the board.

Law enforcement, health care, or investigative personnel in the furtherance of their official duties who currently have access to other prescription drug-related information reported to the board under the Texas Controlled Substances Act also would have access to information reported under the bill.

The bill would take effect September 1, 2017, and would apply only to offenses committed or orders entered on or after that date.

SUBJECT: Moving regulation authority for booting activities to local entities

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero, Paddie, S. Thompson

0 nays

1 absent — Goldman

WITNESSES: For — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Tommy Anderson and Joann Messina, Southwest Tow Operators; Jeanette Rash, Texas Towing & Storage Association)

Against — None

On — (*Registered, but did not testify*: Jim Arnold, Admiral Enforcement; Nora Del Bosque, Capital Parking ATX; Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, sec. 2308 regulates towing and booting companies and operators. Sec. 2308.151 requires a towing operator to have a license to perform a towing or booting operation or operate a towing or booting company.

In 2016, the Texas Department of Licensing and Regulation conducted a strategic planning process to identify regulations and licensing requirements that could be eliminated without a negative impact on public health and safety. Some have called for state-level regulations on vehicle booting and towing companies to be adjusted or eliminated.

DIGEST: CSHB 3306 would remove state licensing requirements for vehicle booting operators and companies and instead would allow local authorities to regulate booting activities in areas where the entities regulate parking or traffic. Any boot operator's license or booting

company license issued by the Texas Department of Licensing and Regulation would expire on September 1, 2018. Unless a person was authorized by a local authority, the person could not perform booting operations or operate a booting company.

Local authorities, defined as governmental entities authorized to regulate traffic or parking including institutions of higher education and political subdivisions, would be allowed to regulate the operation of booting companies and operators that operated on a parking facility and any permit and sign requirements relating to booting vehicles.

These authorities would be required to incorporate into any adopted regulations:

- existing state regulations on booting of unauthorized vehicles and new regulations added by the bill on boot removal;
- procedures for vehicle owners or operators to file complaints; and
- penalties for a booting company or operator that violates boot removal requirements.

The bill would create certain statewide requirements for booting companies, including requiring booting companies to remove a boot within one hour after the owner or operator of the vehicle requests removal, requiring companies to waive a boot removal fee if the boot was not removed within the one hour, and capping the total removal fee for removing multiple boots on a single vehicle at the amount charged for removing one boot.

The bill also would allow a designated university official, in order to facilitate a special event, to request that a vehicle parked at a university parking facility be towed to another location on campus. A vehicle could not be towed under this provision unless the university met certain minimum notification and signage requirements about the special event, as listed in the bill. The university would have certain obligations regarding fees and notification after the vehicle was towed.

In a manner prescribed by the local authority, a booting operator would

have to provide notice on how to file a complaint against a booting operator about a violation.

The bill would adjust the composition of the Towing and Storage Advisory Board's membership as specified in the bill, including by removing the representative of a booting company and adding a representative who operates both a towing company and a vehicle storage facility.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

A companion bill, SB 1501 by Zaffirini, was approved by the Senate on April 25 and has been referred to the House Licensing and Administrative Procedures Committee.

SUBJECT: Amending certain local government health care and other regulations

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Coleman, Springer, Biedermann, Hunter, Neave, Stickland, Thierry, Uresti

0 nays

1 absent — Roberts

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; Donald Lee, Texas Conference of Urban Counties; (*Registered, but did not testify*: Reginald Smith, Communities for Recovery; Rick Thompson, Texas Association of Counties; John Carlton, Texas State Association of Fire and Emergency Districts; Julie Wheeler, Travis County Commissioners Court)

Against — None

On — Ashley Fischer, Secretary of State

BACKGROUND: The Medicaid sec. 1115 transformation waiver is a 5-year demonstration project that provides supplemental funding to certain Medicaid providers in Texas through the uncompensated care pool and the Delivery System Reform Incentive Payment (DSRIP) pool.

The uncompensated care pool payments help offset the costs of uncompensated care, including indigent care, provided by local hospitals. DSRIP payments are incentives to hospitals to improve the health of patients and enhance access to health care, as well as its quality and cost-effectiveness.

Under the sec. 1115 waiver, eligibility for the two pools requires participation in a regional health care partnership in which local governments, Medicaid providers, and other stakeholders develop a regional plan. Governmental entities must provide public funds called

intergovernmental transfers to draw down funds from the pools.

Since 2013, the Legislature has authorized several counties and one city to create a local provider participation fund to generate intergovernmental funds and access federal matching funds under the sec. 1115 waiver. Proponents of this mechanism contend that Angelina County should be able to develop a local provider participation program as well.

DIGEST:

CSHB 4180 would authorize the creation of a health care provider participation program in a county that met certain location and population requirements specified in the bill (Angelina). The bill also would make changes unrelated to the health care provider participation program, including amending the governing board and meeting regulations for certain emergency services districts, repealing statute relating to graffiti removal notices, and changing videoconferencing rules for county commissioners court meetings.

Local provider participation fund. The commissioners court of Angelina County could, by majority vote, adopt an order authorizing a health care provider participation program. The program would allow the county to collect a mandatory payment from each institutional health care provider in the county. Mandatory payments would be deposited in a local provider participation fund (LPPF).

Each year, the commissioners court would be required to hold a public hearing on the amount of mandatory payments required and how that revenue would be spent. Notice of the hearing would be published in a newspaper of general circulation in the county at least 10 days before the hearing.

The bill would require mandatory payments to the LPPF to be uniformly proportionate with the amount of net patient revenue generated by each paying hospital. A mandatory payment could not exceed six percent of the aggregate net patient revenue of all paying hospitals. A paying hospital could not add a mandatory payment as a surcharge to a patient.

If a mandatory payment under this bill was ineligible for federal matching funds, the county could provide an alternative provision or procedure that

conformed with the requirements of the federal Centers for Medicare and Medicaid Services.

The LPPF would consist of all the revenue from mandatory payments, money received from the Health and Human Services Commission (HHSC) as a refund of an intergovernmental transfer to the state for Medicaid supplemental payments, and the earnings of the fund.

Money in the LPPF could be used only to:

- fund intergovernmental transfers;
- subsidize indigent programs;
- refund a portion of a mandatory payment collected in error;
- refund hospitals the share of money received by the county from HHSC not used for supplemental payments; and
- fund associated administrative expenses.

The bill would prohibit money in the LPPF from being commingled with other county funds. An intergovernmental transfer of funds could not be used to expand Medicaid eligibility.

Emergency services districts. The bill would specify that certain emergency services districts (ESDs) have a five-member board of emergency services commissioners, including districts located partly in a county with a population under 22,000 and partly in a county with a population of more than 54,000 (Tyler and Hardin counties).

Two board members would be appointed by the commissioners court of the smaller county and three members would be appointed by commissioners court of the larger county. Members would serve two-year terms and a commissioners court would appoint a successor on January 1 each year a member's term expired.

The bill also would allow the board of an ESD located wholly in a county with a population of 75,000 or less to hold regular meetings less frequently. The board still would have to meet either quarterly or every other month.

Graffiti removal. The bill would repeal a statute requiring a county or municipality to offer to remove graffiti on a landowner's property for free, and to be refused by the owner, before requiring the owner to remove the graffiti.

Videoconference calls. The bill would make inapplicable a provision in the Local Government Code establishing that a county judge, if present, is the presiding officer of a commissioners court meeting in the event that the meeting was held by videoconference and the judge was not located at the physical space made available to the public for the meeting.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Addressing certain consequences imposed on a driver's license by DPS

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 7 ayes — P. King, Nevárez, Burns, Holland, J. Johnson, Metcalf, Schaefer

0 nays

2 absent — Hinojosa, Wray

WITNESSES: For — None

Against — None

On — John Hawkins, Texas Hospital Association; (*Registered, but did not testify*: Skylor Hearn, Texas DPS)

BACKGROUND: Transportation Code, sec. 521.042 requires the Department of Public Safety (DPS) to examine an applicant's record of conviction of a traffic violation or involvement in traffic accidents before issuing or renewing a driver's license.

Although state law requires courts to report convictions for traffic violations to DPS within a short timeframe, concerns have been raised that some courts may report convictions months or years after a conviction date, resulting in untimely suspension.

Transportation Code, ch. 524 allows suspension of a driver's license for failure to pass a test for intoxication. Chapter 724 allows suspension if a person arrested for driving while intoxicated refuses to submit a blood or breath specimen. A license suspended under these chapters may not be reinstated nor another license issued until the person pays DPS a fee of $125, plus any other fees required by law.

Observers suggest that the language in chs. 524 and 724 may be unclear as to when the reinstatement fee may be paid, and some have paid the fee early in an attempt to bypass the full suspension period.

DIGEST:

HB 3609 would prohibit the Department of Public Safety (DPS) from considering a record of a conviction of a driver's license holder in a decision to impose an enforcement action against the license holder if the record was received by DPS more than one year after the date of the conviction. This would apply to decisions to suspend, revoke, or deny renewal of a license or assign points to a license under the Driver Responsibility Program.

DPS could consider a record of conviction received more than one year after the date of conviction if the license holder held a commercial driver's license or held one at the time of the offense; was operating a commercial motor vehicle at the time of the offense; was transporting hazardous material at the time of the offense; or if the license holder was convicted for an offense related to intoxication.

The bill would modify provisions on actions taken against a driver's license in response to a failure to pass a test for intoxication or a refusal to provide a blood or breath specimen after arrest for driving while intoxicated. The fee to reinstate or reissue a driver's license could not be paid until after the suspension period ended.

The bill would take effect September 1, 2017.